

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

HIKVISION USA, INC.

Petitioner,

v.

Case No. 23-1032

FEDERAL COMMUNICATIONS
COMMISSION and UNITED
STATES OF AMERICA,

Respondents.

PETITION FOR REVIEW

Pursuant to 28 U.S.C. §§ 2342(1) and 2344, 47 U.S.C. § 402(a), 5 U.S.C. § 706, and Rule 15(a) of the Federal Rules of Appellate Procedure, Hikvision USA, Inc. (“Hikvision”) hereby petitions this Court for review of the decision of the Federal Communications Commission (the “FCC” or the “Commission”) adopted as FCC 22-84 on November 11, 2022 and released on November 25, 2022, titled *Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program, Protecting Against National Security Threats to the Communications Supply Chain Through the Competitive Bidding Program*, Report and Order, Order, and Further Notice of Proposed Rulemaking, ET Docket No 21-232, EA Docket No. 21-233 (rel. Nov. 25, 2022) (the “Order”).

On February 6, 2023, the *Order* was published in the Federal Register at 88 Fed. Reg. 7592. A copy of the *Order* is attached as Exhibit A to this Petition. Venue in this Court is proper under 28 U.S.C. § 2343.

Hikvision was a participant in the proceeding below and is aggrieved by the challenged *Order*. Hikvision seeks review on the grounds that the *Order* exceeds the FCC's jurisdiction and its statutory authority; violates the Equal Protection and Bill of Attainder Clauses of the United States Constitution; violates the Communications Act and the Administrative Procedure Act; and is arbitrary and capricious, an abuse of discretion, not supported by substantial evidence, and otherwise contrary to law.

Hikvision respectfully requests that the Court hold unlawful, vacate, enjoin, and set aside the *Order* and grant such further relief as may be appropriate.

February 13, 2023

Respectfully submitted,

/s/ Timothy J. Simeone

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Counsel to Hikvision USA, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on February 13, 2023, the foregoing was served by U.S. mail upon the following parties:

Merrick Garland
Attorney General
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950 Pennsylvania Avenue NW
Washington, DC 20530

P. Michele Ellison
General Counsel
Federal Communications Commission
445 12th Street SW, 8th Floor
Washington, DC 20554

Respectfully submitted,

/s/ *Timothy J. Simeone*
Timothy J. Simeone

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1 and Circuit Rule 26.1, Petitioner Hikvision USA, Inc. (“Hikvision USA”) states the following.

Hikvision USA is a California corporation and wholly owned subsidiary of Hangzhou Hikvision Digital Technology Company, Limited, which is publicly traded on China’s Shenzhen Stock Exchange. Hikvision USA sells security equipment, primarily surveillance cameras and related devices, through a network of distributors—mostly small-to medium-sized businesses—that over the past ten years has included approximately 50,000 independently owned and operated dealers across the United States.

As a publicly traded company, Hikvision USA's parent company, Hangzhou Hikvision Digital Technology Co., Ltd., has a diverse set of public and private shareholders. The largest shareholder, owning approximately 36.08% of the company, is China Electronics Technology HIK Group Co., Ltd., an indirectly state-owned enterprise of the People's Republic of China, and the second largest shareholder—with 10.20% of Hangzhou Hikvision Digital Technology Co., Ltd—is founder, Hong Kong resident Kung Hung Ka (also written Gong Hongjia). No other person or entity holds more than 10% of the shares of Hangzhou Hikvision Digital Technology Co., Ltd.

Other than Hangzhou Hikvision Digital Technology Company, no other person or entity holds a 10% or greater ownership interest in Hikvision USA.

February 13, 2023

Respectfully submitted,

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